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State of Montana

REPORT TO THE LEGISLATURE

Sunset Review

BOARD OF CHIROPRACTORS

PLEASE RETURN

The 1977 Sunset Law terminates the Board on July 1, 1981. This review provides information to assist the Legislature in making the decision to terminate, modify or continue the Board.

This report presents eight areas for Legislative consideration (page 20) including:

- ▶ The board's investigation of complaints.
- ▶ Changes in laws relative to county registration, board membership, and association approval authority of expenditures of public funds.

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February 1980

The Legislative Audit Committee
of the Montana State Legislature:

Herein transmitted is our sunset performance review of the Montana Board of Chiropractors. The review was conducted in response to the 1977 Sunset Law, which terminates the board on July 1, 1981.

The review focused upon an examination of board operations. It does not encompass an audit of the board's financial transactions or overall compliance with state laws.

There are no formal recommendations in the report since the responsibility for such recommendations lies with the Audit Committee. Nevertheless, we discussed the contents of the report with a number of individuals and organizations, including the director of the Department of Professional and Occupational Licensing, the members of the Board of Chiropractors, the Governor's Office of Budget and Program Planning and the Montana Chiropractic Association.

We wish to express our appreciation to the members of the board and to the director of the department and his staff for the assistance they provided during the review. We also wish to thank the members of the chiropractic profession for assistance they gave us.

Respectfully submitted,

Morris L. Brusett

Morris L. Brusett, C.P.A.
Legislative Auditor

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APPOINTIVE AND ADMINISTRATIVE OFFICIALS

BOARD OF CHIROPRACTORS

		<u>Term Expires</u>
Jarl Hoklin, D.C. Chairman	Laurel	1981
Carrol E. Albert, D.C. Secretary	Great Falls	1982
Lauren C. Weis, D.C.	Butte	1983

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING

Ed Carney	Director
Mary Lou Crawford	Administrative Secretary

Chapter I

BACKGROUND

This sunset review addresses state regulation of chiropractors by the Board of Chiropractors, a state board within the Department of Professional and Occupational Licensing.

REPORT OBJECTIVES

The 1977 Legislature passed a law terminating numerous regulatory boards and agencies, including the Board of Chiropractors. This law, commonly referred to as the "sunset law," requires the Legislative Audit Committee to conduct a performance review of each terminated agency. The performance review must objectively examine the need for each regulatory board/agency and the Audit Committee must offer recommendations for reestablishment, modification, or termination.

The sunset law also requires an examination of the following questions during the conduct of the committee's review:

- (a) Would the absence of regulation significantly harm or endanger the public's health, safety, or welfare?
- (b) Is there a reasonable relationship between the exercise of the state's police power and the protection of the public's health, safety, or welfare?
- (c) Is there another less restrictive method of regulation available which could adequately protect the public?

- (d) Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?
- (e) Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?
- (f) Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?

Using the information contained in this report, and that gathered during a public hearing, the committee will address these six questions. During the hearing process, testimony and comments will be heard from the board/agency, the profession, and interested members of the public.

In defining the intent of the sunset law the legislature provided for periodic examination of each board every six years. In this way, the legislature will be in a better position to ensure that agencies and their programs exist only to be responsive to state residents' needs. The sunset law terminates the Board of Chiropractors on July 1, 1981.

CHIROPRACTIC PROFESSION

Chiropractic is a system of treatment involving specific adjustment or manipulation of the body, particularly the spinal column, for the correction of nerve interference. The treatment is based on the principle that the nervous system is a significant factor in determining health. Any interference with

the nervous system has to be corrected or relieved in order to reestablish normal body functions and resistance to disease.

Chiropractors do not perform surgery or prescribe drugs. However, they can prescribe diet, exercise, and rest and may use heat, light, and water therapy in their treatment. Most chiropractors use x-rays in diagnosis, including full trunk x-rays which show the entire spinal column and adjacent parts of the body from the skull to the thighs.

As of December 31, 1977, the Official Directory of the Federation of Chiropractic Licensing Boards showed 19,500 chiropractors licensed to practice in the United States. Although some chiropractors work as salaried assistants for others with established practices or in chiropractic clinics, most chiropractors work in private offices. Chiropractors do not ordinarily use centralized treatment centers, i.e., hospitals and other institutions, as do medical doctors.

In Montana, there are 186 licensed chiropractors. Of these, 117 are residents of Montana while the other 69 licensees reside outside the state.

The resident licensees represent a chiropractor to patient ratio of one chiropractor for every 6,410 persons in Montana, based upon 1975 population figures. The national average is more than 11,000 persons per

licensed chiropractor. Illustrations 1 and 2 show the distribution of licensed chiropractors in Montana. The ratio of chiropractors per 100,000 population ranges from 12.7 in Region 4 to 20.2 in Region 5.

HEALTH REGIONS - MONTANA

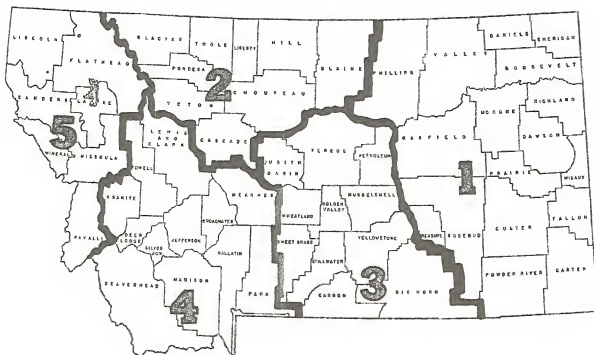


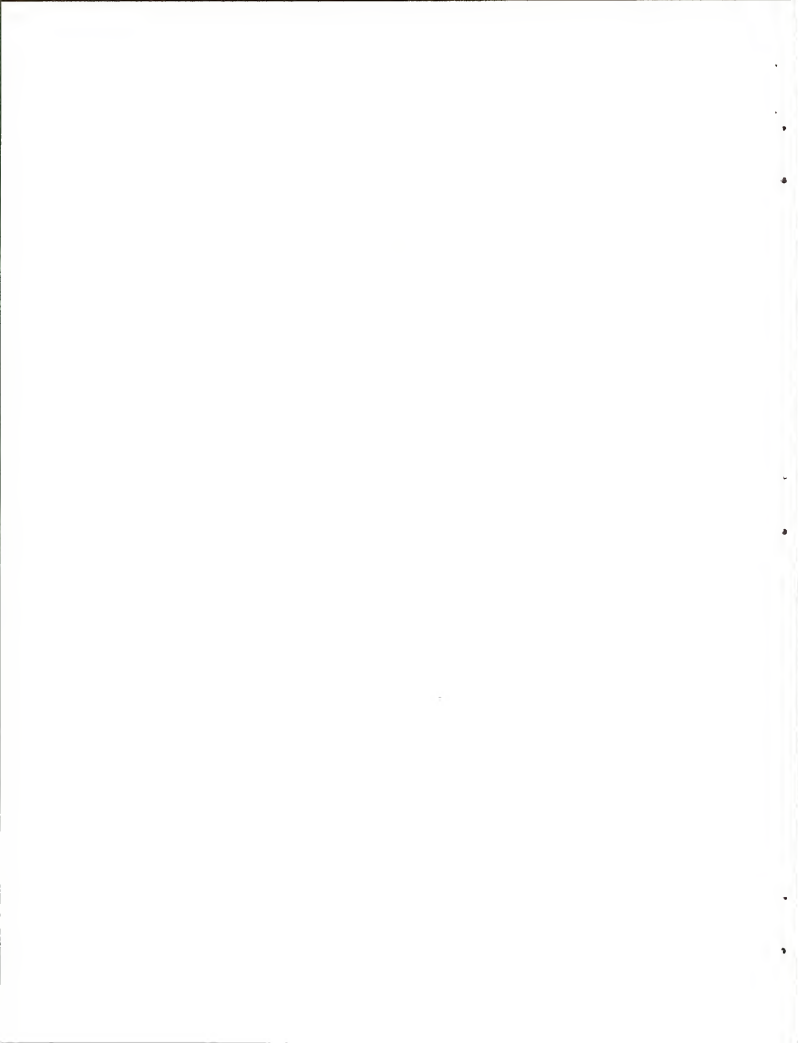
Illustration 1

RESIDENT CHIROPRACTORS IN MONTANA
BY HEALTH REGIONS

<u>Region Number</u>	<u>Population</u>	<u>Number of Chiropractors</u>	<u>Ratio of Chiropractors Per 100,000 Population</u>
1	97,000	13	13.4
2	147,000	21	14.3
3	148,000	24	16.2
4	181,000	23	12.7
5	178,000	36	20.2
State Total	751,000	117	15.6

Source: Compiled by the Office of the Legislative Auditor.

Illustration 2



Chapter II

THE BOARD OF CHIROPRACTORS

INTRODUCTION

The Board of Chiropractors was established by popular initiative in the general election of November 5, 1918. The vote on the initiative was 46,302 for and 39,320 against. The licensing law was made effective by the Proclamation of the Governor on December 28, 1918. The intent of the law has remained basically the same over the years. Montana's law prescribes the following duties for the board:

1. Establish minimum education and examination requirements for licensure;
2. Designate and approve continuing education requirements for license renewal; and
3. Investigate and act upon complaints against licensees.

BOARD OPERATIONS

Structure

The three-member board is made up of licensed chiropractors who have practiced in Montana for at least one year. They are appointed by the Governor for three-year terms with a limit of two consecutive terms. No two members are to be graduates of the same school or college of chiropractic. The board annually elects, from its members, a president, vice-president, and secretary-treasurer.

Each board member receives \$25 for each day spent in the performance of board duties plus mileage and travel expenses as provided by state law.

During the seven year period from fiscal year 1972-73 through fiscal year 1978-79, the board held 21 formal meetings, actually meeting no less than two nor more than five times in any one fiscal year.

Staffing and Funding

The board is attached to the Department of Professional and Occupational Licensing for administrative purposes, and is provided a part-time secretary by the department. The secretary spends approximately 15 percent of available time maintaining records and performing the administrative duties for the board. The remaining time is spent on other boards within the department.

In addition to the administrative secretary, the department had retained a consultant for the board since 1977. The consultant's contract terminated January 1, 1980. The duties of the consultant were to act in an advisory capacity to the board and to the department for those functions of the department relating to the board. The consultant was paid \$15 per month from the department and was entitled to additional payment for any special services rendered and attendance at meetings according to the state travel schedule and the chiropractic law. The amounts

paid to the consultant for services from October 1, 1977 to June 26, 1979, were:

EXPENSES FOR CONSULTANT

	<u>Travel</u> <u>Expenses</u>	<u>Duty</u> <u>Pay</u>	<u>Monthly</u> <u>Pay (\$15)</u>	<u>Collecting</u> <u>Information</u>	<u>Supplies</u>	<u>Total</u>
Total for Period	\$319	\$312	\$330	\$29	\$15	\$1,005

Source: Compiled by the Office of the Legislative Auditor.

Illustration 3

The board is funded from an account in the earmarked revenue fund. All revenue collected is provided by fees for examination, reexamination, reciprocity, and renewal of licenses. The following schedule lists these fees as provided for in the statutes and rules of the board:

BOARD OF CHIROPRACTORS
FEE SCHEDULE

Examination Fee	\$50
Reexamination Fee	25
Reciprocity Fee	50
Renewal Fee	25

Source: Compiled by the Office of the Legislative Auditor.

Illustration 4

The following illustration shows the revenue, expenditures, and fund balance for the board over the past six fiscal years. Fund balances are as of June 30 of each year.

BOARD FINANCES

<u>Fiscal Year</u>	<u>Revenues</u>	<u>Expenditures*</u>	<u>Fund Balance</u>
1978-79	\$5,530	\$6,987	\$2,919
1977-78	5,725	6,299	4,376
1976-77	4,725	4,400	4,950
1975-76	5,025	7,271	4,625
1974-75	5,025	3,994	6,871
1973-74	4,605	5,511	5,840

*Includes prior year expenditures, accruals, and adjustments.

Source: Montana Financial Reports.

Illustration 5

GOALS AND OBJECTIVES

The sunset law requires each board under review to delineate its goals and objectives. The board has stated that its goal and objectives are the following:

GOAL: To regulate the chiropractic activities in Montana by examining and licensing only those applicants who meet the qualifications and monitor the practice of all licensees to assure the public of professional competence in this field.

OBJECTIVE: To renew 180 licenses, examine new applicants, and hold two board meetings annually with examinations at each meeting. To recruit new practitioners to the state and travel to national meetings to maintain contact with other state boards and participate in health related meetings.

BOARD FUNCTIONS

Licensing

Applicants for licensure must meet the following criteria:

1. Two years (60 semester hours) of liberal arts training in a college or university.

2. Graduation from a chiropractic college approved by the board.
3. Passage of the National Diplomate (National Board Examination).
4. Satisfactory evidence of good character and reputation.
5. Copies of all diplomas, transcripts, and certificates must accompany the application.
6. Passage of a state clinical proficiency examination.

Reference letters are not required and there is no postgraduate experience requirement. The board examines each application and decides whether that applicant is properly qualified. The applicants for reciprocity licensing, if they meet all other requirements for licensure, are still required to take the clinical proficiency examination.

The board examines the proficiency of qualified applicants (those who have satisfied the criteria numbered 1 through 5 above) twice a year: once in June during the Montana Chiropractic Convention in the city where that convention is held, and once in October in Helena. The examination is written by the board and includes a practical and an oral section. The examination covers clinical skills, which are not included in the national board examination. Over the past seven fiscal years, 94 applicants, including applicants for reciprocity, have taken the proficiency examinations and 69 have passed as shown in the following illustration:

CHIROPRACTIC LICENSING EXAMINATIONS

<u>Fiscal Year</u>	<u>Taken</u>	<u>Passed</u>	<u>Pass Percentage</u>
1978-79	22	11	50%
1977-78	18	10	56%
1976-77	10	10	100%
1975-76	7	7	100%
1974-75	15	11	73%
1973-74	10	10	100%
1972-73	12	10	83%
Total	94	69	73%

Source: Compiled by the Office of the Legislative Auditor.

Illustration 6

The board issues two types of licenses. For those applicants who meet all requirements with the exception of passage of the proficiency examination, the board may issue a temporary license (section 37-12-303, MCA). This temporary permit to practice is nonrenewable and is valid only until a specific date; usually the next examination date, or until certain formal requirements are satisfied. Since 1973, no temporary licenses have been issued by the board. Each regular licensee is issued a license for the period of one year from September 1 through August 31.

The following illustration summarizes the licensing activities of the board.

BOARD OF CHIROPRACTORS
LICENSING STATISTICS

<u>Calendar Year</u>	<u>New</u>	<u>Renewal</u>
1979	10	186
1978	15	176
1977	10	180
1976	13	180
1975	10	173
1974	10	164
1973	10	158

Source: The Department of Professional and Occupational Licensing.

Illustration 7

Continuing Education

At the end of each license year, the licensee must show evidence of attendance and successful completion during that license year of at least one postgraduate education program for chiropractors. The program consists of monitored classroom time conducted by instructors from accredited colleges of chiropractic in subjects designated and approved by the board (section, 37-12-307, MCA). If, for reasons acceptable to the board, a licensee was unable to attend the required classes, the board may renew the license for one year, but under no circumstances can a license be renewed for two consecutive years without satisfying the continuing education requirements.

During the period 1973 through 1979, the board refused to renew seven licenses for lack of continuing education credits. Seven additional licenses were held

until the requirements were satisfied. In the cases where the board refused to renew licenses, the people were usually nonpracticing licensees. For example, one was a Montana resident who failed to get continuing education credits in two consecutive years for health reasons. Another was a nonpracticing licensee who lived in another state.

Complaints

The board is charged with handling all complaints filed against licensed chiropractors or persons practicing chiropractic without a license. Between October 1973 and July 1979 the board handled 21 complaints. Of the 21 complaints only 16 were formally recorded in the complaint register. The other five complaints were recorded in board minutes, or in correspondence files. Illustration 8 shows the nature of these complaints, their initiation, method of investigation, and final disposition.

BOARD OF CHIROPRACTORS
SUMMARY OF COMPLAINTS 1973-1979

<u>Nature of Complaint</u>	<u>Number and Percent of Total</u>	<u>Who Initiated</u>	<u>Investigated By</u>	<u>How Resolved</u>
Quality of Services	4 (19%)	Consumer-3 Medical Doctor-1	Board-4	No Violation [@] -4
Unprofessional Conduct	6 (29%)	Consumer-3 Medical Doctor-1 Board of Psychologists-1 Governmental Agency-1	Board-6	No Violation-4 Cautioned by Board-2
Practicing Without a License	3 (14%)	Consumer-1 County Attorney-2	State Association*-1 Contract Investigation-2	No Violation-1 Conviction-1 Acquittal-1
Fees	4 (19%)	Consumer-4	Board-4	No Violation-2 Advised Licensee-2
Miscellaneous	4 (19%)	Consumer-1 Board-2 Licensee**-1	Board-2 No Record-2	Referred to State Association***-1 No Violation-1 No Record-2
TOTALS	21 (100%)	Consumers-12 Medical Doctors-2 Other Governmental Agencies-4 Board-2 Licensee-1	Board-16 State Association-1 Contract Investigation-2 No Record-2	No Violation-12 Cautioned by Board-2 Conviction-1 Acquittal-1 Advised Licensee-2 Referred to State Association-1 No Record-2

[@]Board decided disciplinary action not necessary.

*Complaint was sent by consumer to the Montana Chiropractic Association about an unlicensed practitioner. The association advised the consumer to contact an attorney. The board agreed with the association's handling of the complaint.

**The licensee complained against the board and presented evidence of timely payment of a license fee. The board corrected its records.

***The records did not show the nature of the complaint, but it was referred to the Peer Review Committee of the Montana Chiropractic Association.

Source: Compiled by the Office of the Legislative Auditor.

Illustration 8

Two complaints, involving practicing without a license, resulted in the board moving to prosecute the offenders. The board obtained a conviction in one case, but charges were dropped by the county attorney in the other case in favor of a charge of practicing medicine without a license. However, the charge of practicing medicine resulted in an acquittal.

Where the board determined that no action was necessary, the board gave the following reasons: it stopped investigation in five cases where it was interpreted that the matter was between patient and doctor and was not within Board jurisdiction; it found insufficient evidence in three cases; two cases were simply ruled no violation; one investigation was stopped when the complainant lost interest; and, in one case, it agreed with the action taken by the Montana Chiropractic Association.

EXEMPTIONS TO REGULATION

The practice of chiropractic is defined not to be the practice of medicine or surgery under Montana law. However, nothing in the chiropractic law restricts the practice of licensed physicians, surgeons, or osteopaths.

Chapter III

OTHER REGULATION

FEDERAL REGULATION

The American Council on Education and the federal Medicare program recognize only those chiropractors with degrees from chiropractic colleges accredited by the Council on Chiropractic Education and who have passed the National Board Examination. The board imposes those same degree and examination requirements on applicants for licensure in Montana.

Chiropractors filing claims for services under Medicare can come under the scrutiny of HEW. Medicare claims are screened to determine if they meet established guidelines. If there are any discrepancies, the claim and practices of the chiropractor are reviewed by a committee of the screening organization. Any indications of fraud or abuse are forwarded to HEW for further review. Any possible violations of the licensing act can be forwarded to the board. In the case of Medicare, no possible violations have been reported to the board.

OTHER STATE REGULATION

Most chiropractors use x-rays for diagnostic purposes. Federal regulations establish the equipment performance standards that must be met for all radiation emitting products. The state of Montana, through the Occupational Health Bureau of the Department of

Health and Environmental Sciences (HES), has also established extensive rules and regulations relating to x-ray installations and equipment.

All x-ray equipment must be registered with HES. The registrant (i.e., chiropractor) is responsible for assuring that radiation sources under his/her jurisdiction are used only by persons competent to use them. No registrant is to operate x-ray equipment unless the equipment and installation meet the requirements of HES rules. HES determines if registrants are complying with required procedures and standards through on-site inspections.

One other agency of state government is indirectly involved in the overall regulation of licensed chiropractors. The Workers' Compensation Division of the Department of Labor and Industry requires that chiropractors be licensed before they receive payments from compensation claims. Also, the Workers' Compensation Division will make a determination as to the amount of payment and type of treatment allowed. For example, the division has refused to approve a \$2,000 annual fee for a treatment program proposed by one chiropractor because there was no timetable set for cure.

SELF-REGULATION

Professional societies and other organizations have some self-regulatory powers. About 90 percent of all licensed chiropractors in Montana belong to the

Montana Chiropractic Association. The association has an Ethics Committee which attempts to oversee the practices and activities of members of the association. This association, like many other state societies, sets standards of conduct for its members and also provides input to the state licensing board. Continuing education for licensed chiropractors in Montana is provided by the association and approved and monitored by the board.

OTHER STATES' REGULATION

The 51 state licensing boards (including the District of Columbia) regulate chiropractors in a fairly uniform fashion. The following table compares various facets of Montana's regulatory process with those of the nation as a whole.

CHIROPRACTIC REGULATION NATIONWIDE

<u>Facet</u>		<u>U.S. and District of Columbia</u>	<u>Montana</u>
Licensing Entity	46	Board of Chiropractors or Chiropractic Licens- ing	Board of Chiropractors
	5	Board of Medicine or Medical Examiners or Healing Arts	
Housed Within What Agency	31	Independent or Department of Licensing	Department of Profes- sional and Occupational
	12	Department of Health	Licensing
	8	Other*	
Board Makeup	32	All Chiropractors	All Chiropractors
	13	Majority Chiropractors	
	6	Minority Chiropractors	
Public Members	6	States	No
Board Size	36	3-5 members	3 members
	12	6-10 members	
	3	11 or more members	
Educational and Examination Require- ments**	2	More than Montana	See Chapter II
	20	Same as Montana	
	29	Less than Montana	
Experience Require- ments	48	No postgraduate experience	No experience
	3	Some experience	
Continuing Education Required	28	States	Yes

* Departments of Education, Consumer Affairs, Commerce

**As compared to requirements for licensure in Montana.

Source: Compiled by the Office of the Legislative Auditor.

Illustration 9

Chapter IV

AREAS FOR LEGISLATIVE CONSIDERATION

The design and effectiveness of certain aspects of the regulatory process may warrant legislative consideration. The intent of the following sections is to briefly discuss these aspects as they apply to the Board of Chiropractors. The areas for consideration include:

1. Complaints
2. Records Destruction
3. Board Membership
4. Association Approval of Services
5. County Registration of Chiropractors
6. Duties of Licensees
7. Department Administration
8. Other Areas of Consideration

During our review we noted additional concerns which were subsequently addressed by the board and the department. The department had retained a consultant for the board. The consultant kept board records of meetings and complaint files, received all applications for licensure, made determinations as to their completeness, and reported to the board. It appeared that both departmental and board functions were being performed by the consultant. Following completion of our review of the board, the department's contract with the

consultant expired, and the department has not renewed the contract.

COMPLAINTS

In 1977 Montana law was amended to revise disciplinary provisions relating to the practice of chiropractic. A new section of the law was added which defined unprofessional conduct. Prior to this addition, the board had few formal standards on which to base suspension and revocation actions. In relation to this authority, the board states its goal as: "To monitor the practice of all licensees to assure the public of professional competence in this field."

It appears that the board may have been hesitant in carrying out this goal. Our review of complaints since June of 1977 noted that two complaints against the same licensee charged that "vigorous chiropractic manipulation" had resulted in physical injury, in one case paralysis, to the patients involved. One of these complaints was lodged with the Board of Medical Examiners by a neurological surgeon on behalf of a patient and a copy of the letter was sent to the Board of Chiropractors. The other complaint was lodged by an individual who had been a patient of the chiropractor. A detailed report of a neurological examination accompanied the complaint in the first case.

There is no investigative record of either complaint in the board files. The response from the board

to the first complaint was a statement that the complaint had nothing to do with the Chiropractic Board, nor the Medical Board, and if the patient wished to file suit for malpractice, that was his prerogative. There was also a statement that no formal complaint had been filed with the Chiropractic Board and the letter was merely a third party bringing the matter to the board's attention. Thus, the board has no right to disturb the doctor-patient relationship. In regard to the second complaint, there is a letter to the board from a board member stating that the licensee had been interviewed and appropriate action was taken. No specifics were stated.

One complaint filed prior to the 1977 defining of unprofessional conduct charged a licensee with using acupuncture on a woman with the result that she was injured. This complaint was filed prior to regulation of acupuncture by the Board of Medical Examiners. The records indicate that the woman went to another chiropractor and that this chiropractor reported to the board that needles had been inserted in the patient's back and shoulders and the punctures were infected. However, the chiropractor who discovered the injury asked not to be involved in the case. Records show that the board investigated by interviewing the complainant and writing a letter to the chiropractor asking if he had used acupuncture. The licensee denied

the use of acupuncture. There was no record of any further action by the board.

As described here, at least three of the twenty-one complaints alleged injury or suffering as the result of a chiropractor's treatment of conditions which eventually called for medical treatment. All of these complaints resulted in no violation being determined by the board. It appeared from our review that the board should have instituted more thorough investigations. As mentioned before, the board has established the goal to "Monitor the practice of all licensees to assure the public of professional competence in this field." The board appears hesitant in carrying out this goal.

RECORDS DESTRUCTION

Our review of board records indicated that it is the practice of the board to clear out the files, removing and destroying records which contain "impertinent information." This information includes correspondence with the Federation of Chiropractic Licensing Boards, chiropractic colleges, and inquiries seeking information on licensing in Montana, as well as examination papers. Although the information does not include records which the board considers important to its functioning, the records destruction does not follow the procedures set forth in the law (section

2-6-212, MCA). This section requires unanimous approval by the State Records Committee before any records may be destroyed. Also, any retention schedules for destroying unimportant records must be approved by this same State Records Committee, according to section 2-6-204, MCA.

BOARD MEMBERSHIP

The board is made up of three persons who are licensed to practice the profession. In order to facilitate public input into board operations, some states have required that regulatory boards have public members. Public members may add important input into the board's methods and performance. Illustration 8 (page 19) shows six boards with at least one public member. The present members of the board expressed no objections to including a public member on the board.

Gubernatorial appointments to the board are not subject to Senate confirmation. The Senate confirms the appointments to some of the state's boards and commissions. In addition, during the 1977-79 biennium of sunset, the Legislative Audit Committee recommended the appointments to regulatory boards be subject to Senate confirmation.

ASSOCIATION APPROVAL OF SERVICES

Section 53-3-103, MCA, states in part that:

"... medical aid and hospitalization for county residents and nonresidents within the county unable to provide these necessities

for themselves are the legal and financial duty and responsibility of the board of county commissioners and are payable from the county poor fund. The board of County Commissioners shall make provisions for competent and skilled chiropractic services as approved . . . by the state chiropractic association. . . ."

Not all practitioners in the chiropractic field are members of the association. Association members represent approximately 90 percent of the profession in Montana. By establishing in the statutes that skilled services must be approved by the association, there exists an exclusive arrangement. The intent of association approval appears to be to obtain professional consultation for the county commissioners, but what also occurs is that a specified private organization has approval authority over services which are paid from governmental funds.

The purpose of licensing chiropractors is to assure competent practitioners. Thus, approval of skilled services should most likely lie with the governmental body responsible for assuring competence, not a private association.

COUNTY REGISTRATION OF CHIROPRACTORS

The law (section 37-12-306, MCA), requires a chiropractor to register his/her certificate with the county clerk and recorder of each county in which he/she desires to practice. This requirement was part of the initiative which originally established the

chiropractic licensing law in 1918. A similar requirement exists for dentists, optometrists, osteopaths and podiatrists. The law also states that the county clerk and recorder is to keep a complete list of licenses recorded, and that failure on the part of a licensee to have the license so recorded is grounds for revocation or cancellation of the license by the board.

Seven counties were contacted to determine if they were registering chiropractors as required by law. Three counties reported that most new licensees in all health professions register with the county clerk and recorder. One of the large counties reported that few health professionals register their licenses, and three counties reported that they have no chiropractors registered. Two of the counties were not aware of the law requiring registration.

Several board members have indicated that they do not see a need for chiropractors to register with each county in which they work. However, the board has not officially discussed the requirement.

This requirement of the law appears to be unnecessary since many chiropractors are currently not registering with counties and the board does not see a need for the requirement.

DUTIES OF LICENSEES

Most boards do not place a responsibility with the licensee to provide information that would alert the

board to potential problem areas. For example, the board never learns of the existence or results of malpractice actions which could be indications of the quality of services provided by licensees.

In an attempt to correct such situations, a Council on State Governments Task Force which was studying dental laws, defined several duties for licensees that may be applied to all health-related professions:

1. As a condition of renewal of a license, each licensee shall report information pertaining to age, practice location(s), practice characteristics, practice status (full-time, active, semi-active, inactive), and other information determined by rule. A change in home or office address shall be reported when it occurs.
2. Each licensee, upon license renewal, shall report to the board every instance of the prior licensure period in which the quality of professional services was the subject of legal action and which resulted in a settlement or verdict in excess of a certain dollar amount.
3. Each licensee shall prominently display at the primary place of practice a license to practice.
4. Each practitioner shall permit his/her practice facilities and patient and professional records to be inspected at reasonable times and in a responsible manner by a representative of the board.
5. Each practitioner shall report within 20 days, upon demand from the board, the names, addresses, duties, credentials, and education of employees.

Presently, the board does require licensees to submit some basic information concerning their practice at the time of license renewal. Licensees are not

required to report information concerning legal action against them. There is also no requirement that licensees display their license at their primary place of practice. Furthermore, the law does not specifically mention allowing the board to inspect practice facilities or patient and other records.

Item number two could be partially satisfied by section 33-23-311, MCA, which was passed in 1977. This law requires all insurance companies issuing professional liability insurance in Montana to report to the Commissioner of Insurance any information and statistics which he considers necessary. The commissioner, in turn, is required to submit this information to the appropriate licensing authority at its request.

Following such a request, the chief insurance examiner of the Insurance Division stated that the present reporting form used by the insurers does not develop credible loss experience or information relevant to board needs. And, the present total cost of collecting relevant information is high for whatever benefits, if any, can be derived. In addition, if a licensee was the subject of legal action not covered by liability insurance, this would not be revealed under this law.

Objections to item number four (board inspections) have been expressed by board members and other members of the profession. These chiropractors were concerned

that the board may have problems in implementing inspections of practice facilities and records. They believed such inspections may be an invasion of the privacy of patient records and a violation of the confidentiality of the doctor-patient relationship.

DEPARTMENT ADMINISTRATION

As a result of various sunset reviews of boards within the Department of Professional and Occupational Licensing, three separate administrative areas have consistently been identified. These areas are:

--Reporting requirements of boards.

--Automated license records.

--Multi-year renewal.

Since individual documents will be formulated concerning these administrative areas, a detailed discussion of each is not presented in our review of the board.

Reporting Requirements of Boards

Montana currently has a reporting requirement, section 2-7-102, MCA, which requires all state governmental agencies to submit biennial reports to the Governor. However, these reports, when published, contain very limited information. A report containing more specific information (i.e., number of applicants and examinations, pass-fail rate, receipts and expenditures, goals and objectives, complaints, dispositions of complaints) would increase the usefulness of the report and allow the legislature to monitor more easily a board's activity.

Automated License Records

At the present time, most licensee records are kept manually by the boards within the department. In addition, new and renewed licenses are manually typed by administrative secretaries. An alternative is to automate license records through a department-wide system. The automated system could print renewal notices and also licenses. In addition, such automated records could be used to generate statistical reports on the licensee populations. Additions, deletions, and corrections to the licensee files could also be made easily.

Multi-year Renewal

Most boards within the department are statutorily required to renew licenses on an annual basis. Annual renewal may not be necessary and may result in administrative costs in excess of those necessary for effective regulation. An alternative to annual renewal is to spread renewals over two or more years. If renewals were extended for more than one year, the department workload and administrative expenses would be reduced.

OTHER AREAS OF CONSIDERATION

In previous reviews of regulatory boards in Montana, the aspects of uniformity among boards in reimbursement of board members, and setting licensing fees commensurate with the cost of regulation were often discussed. These issues were not addressed in this

review since the Board of Chiropractors has a reimbursement policy similar to a majority of other boards and a fund balance which indicates reasonable licensing fees, even though expenditures have exceeded revenues for four out of the past six years.